

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH WRIGHT, on his own behalf and  
on behalf of other similarly situated persons,

**Plaintiff,**

LYFT, INC., a Delaware Corporation,

## Defendants.

Case No. 2:14-cv-00421-BJR

**AMENDED ORDER GRANTING  
STIPULATED MOTION TO CERTIFY  
QUESTIONS TO THE WASHINGTON  
SUPREME COURT**

This matter came before the Court on the Stipulated Motion to Certify Questions to the Washington Supreme Court. Having considered the motion, the papers filed in support of the motion, and the files and records herein, the Stipulated Motion to Certify Questions to the Washington Supreme Court is GRANTED and the following issues are hereby certified to the Washington Supreme Court under RCW 2.60.020:

1. Does the recipient of a text message that violates the Consumer Electronic Mail Act, Ch. 19.190 RCW (“CEMA”), have a private right of action for damages (as opposed to injunctive relief) directly under that statute?

**AMENDED ORDER GRANTING MOTION TO CERTIFY LEGAL QUESTIONS TO THE WASHINGTON SUPREME COURT**

- 1       2. Does the liquidated damages provision of CEMA, RCW  
2       19.190.040(1), establish the causation and/or injury elements of  
3       a claim under the Washington Consumer Protection Act, Ch.  
4       19.86 RCW ("CPA"), as a matter of law or must the recipient of  
5       a text message that violates CEMA first prove injury in fact  
6       before he or she can recover the liquidated damage amount?

7                  The Clerk of the Court is directed to submit to the Supreme Court of Washington  
8       certified copies of this Order, a copy of the docket in the above-captioned matter, and Dkt. Nos.  
9       54, 56-60, 63, 65, and 71. The record so compiled contains all matters in the pending cause  
10      deemed material for consideration of the state law questions certified for answer.

11                 The defendant in this action is designated as the appellant before the Supreme Court of  
12      Washington. The Clerk of the Court shall notify the parties as soon as possible, but no more than  
13      three days, after the above-described record is filed in the Supreme Court of Washington. The  
14      parties are referred to state RAP 16.16 for additional information regarding procedures before the  
15      Supreme Court.

16                 The case will remain STAYED until the Supreme Court of Washington answers the  
17      certified questions.

18                 DATED this 17th day of February, 2017.

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22                 Barbara Jacobs Rothstein  
23                 U.S. District Court Judge

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2  
3 Presented by:

4 /s/ Donald W. Heyrich  
5 Donald W. Heyrich, WSBA #23091

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12 Attorneys for Plaintiff

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2                   **CERTIFICATE OF SERVICE**  
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9                   The undersigned attorney certifies that on the 9th day of February, 2017, I electronically  
10 filed the foregoing with the Clerk of the Court using the CM/ECF system which will send  
11 notification of such filing to all counsel on record in the matter.  
12  
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14                   */s/ Donald W. Heyrich*  
15                   Donald W. Heyrich, WSBA #23091  
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